

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

VIACOM INTERNATIONAL INC.,

Plaintiff,

v.

IJR CAPITAL INVESTMENTS, LLC,

Defendant.

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CIVIL ACTION H-16-257

MEMORANDUM OPINION AND ORDER

On April 11, 2017, the court issued its final judgment in favor of plaintiff Viacom International, Inc. (“Viacom”). Dkt. 49. On May 9, 2017, defendant IJR Capital Investments, LLC (“IJR”) filed its notice of appeal. Dkt. 53. Pending before the court is IJR’s motion to postpone the adjudication of attorneys’ fees until after the appellate process. Dkt. 51. In the motion, IJR seeks attorneys’ fees but asks the court to defer ruling on the issue until after the appeal is concluded. *Id.* Viacom responded that IJR was not entitled to attorneys’ fees because IJR is not the prevailing party, and because the time frame for seeking attorneys’ fees has passed. Dkt. 55. Considering the motion, the response, the evidentiary record, and the applicable law, the court is of the opinion that IJR’s motion to postpone the adjudication of attorneys’ fees (Dkt. 51) should be DENIED.

The district court “retains jurisdiction to resolve motions for sanctions and attorneys’ fees while a judgment on the merits is pending on appeal.” *Procter & Gamble Co. v. Amway Corp.*, 280 F.3d 519, 524 (5th Cir. 2002). A motion for attorneys’ fees must be “filed no later than 14 days after the entry of judgment,” unless otherwise indicated by statute or court order. Fed. R. Civ. P. 54(d)(2)(b). The deadline for the parties to file a motion for attorneys’ fees was April 25, 2017. The record shows that neither party has filed a motion for attorneys’ fees, nor has any party cited to

a statute or court order indicating a different filing deadline. *See id.* The court cannot postpone a motion for attorneys' fees that is not yet before the court. Accordingly, IJR's motion to postpone the adjudication of attorneys' fees (Dkt. 51) is DENIED.

Signed at Houston, Texas on May 22, 2017.

A handwritten signature in black ink, appearing to read 'G. Miller', is written over a horizontal line.

Gray H. Miller
United States District Judge